

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STATE OF NEVADA,

Plaintiff,

v.

DAVID MATLEAN,

Defendant.

3:08-CV-505-BES-VPC

ORDER

Before the Court is defendant David Matlean's ("defendant") Application to Proceed Without Prepayment of Fees and Affidavit (#1) and Notice of Removal (#1-2) filed on September 19, 2008. This action was referred to U.S. Magistrate Judge Cooke pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. The Magistrate Judge submitted her Report and Recommendation (#4) on April 13, 2009. In the Report and Recommendation (#4), the Magistrate Judge concluded that the defendant has not demonstrated grounds for removal, recommending that this Court deny Defendant's Notice of Removal¹, and that defendant's Application to Proceed Without Prepayment of Fees(#1) be denied as moot and the case be dismissed with prejudice. Defendant filed Objections to Magistrate Judge's Report and Recommendation (#5) on April 17, 2009.

I. ANALYSIS

A. Review of Magistrate Judge's Order

Any party may object to a magistrate judge's case dispositive proposed order, findings,

¹Defendants Notice of Removal (Document #1-2) attached to Application to Proceed Without Prepayment of Fees and Affidavit(#1) filed with the Court on September 19, 2008.

1 or recommendations. 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b); LR 74.2. The district
2 court must make a *de novo* determination of those portions of the magistrate judge's report
3 to which objection is made and may accept, reject, or modify, in whole or in part, the findings
4 or recommendations made by the magistrate judge. *Id.* De novo review means the court must
5 consider the matter anew, the same as if it had not been heard before and as if no decision
6 previously had been rendered. *Ness v. Commissioner*, 954 F.2d 1495, 1497 (9th Cir. 1992).
7 Thus, although the district court need not hold a de novo hearing, the court's obligation is to
8 arrive at its own independent conclusion about those portions of the magistrate judge's
9 findings or recommendation to which objections are made. *United States v. Remsing*, 874
10 F.2d 614, 617 (9th Cir. 1989).


11 After conducting a *de novo* review of the record in this case in accordance with 28
12 U.S.C. § 636(b)(1)(B) and Local Rule IB 1-4, the Court hereby ADOPTS and ACCEPTS the
13 Report and Recommendation (#4), and good cause appearing,

14 IT IS HEREBY ORDERED that the defendant's Notice of Removal (#1-2) is DENIED
15 and defendant's Application to Proceed Without Prepayment of fees (#1) is denied as MOOT.

16 IT IS FURTHER ORDERED that this case is DISMISSED with prejudice. The Clerk of
17 the Court shall enter judgment according.

18 IT IS SO ORDERED.

19 DATED: This 24th day of June, 2009.

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24 BRIAN SANDOVAL
25 UNITED STATES DISTRICT JUDGE
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